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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/929,461	08/14/2001	Harley Kent Heinrich	411951-222	9058
23879	7590	01/26/2005	EXAMINER	
BRIAN M BERLINER, ESQ O'MELVENY & MYERS, LLP 400 SOUTH HOPE STREET LOS ANGELES, CA 90071-2899			TANG, SON M	
			ART UNIT	PAPER NUMBER
			2632	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/929,461

Applicant(s)

HEINRICH ET AL.

Examiner

Son M Tang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18,21 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims **1-3, 5-7, 10-12, 14-16 and 21-22** are rejected under 35 U.S.C. 102(b) as being anticipated by Tuttle [US 6,097,301].

Regarding to claims 1, 21, 10 and 22: Tuttle discloses an apparatus for scanning RFID data from at least one RFID tag 16, comprising:

- a housing 50 containing at least a portion of an RFID scanner;
- means 22 for affixing the housing to a portion of an operator's body; and
- means 20 for automatically scanning said at least one RFID tag without manual intervention by the operator, including means for periodically communicating an interrogating RF signal to determine whether an RFID tag is in proximity [as shown in Fig. 1, 3-4 and col. 3, lines 48-60], whereby interrogating and reading of the RFID tag in proximity/range constitutes the determination in whether an RFID tag is in proximity.

Regarding to claims 2 and 11: Tuttle further discloses wherein said RFID scanner comprises an antenna 50, a radio transmitter 52, and receiver 54 coupled to antenna, and a processor 56 [see Fig. 3].

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Regarding to claims 3 and 12: Tuttle further discloses that wherein the housing contains the antenna 50, and the radio transmitter/receiver and processor are disposed externally of said housing [cited in col. 2, lines 18-30].

Regarding to claims 5 and 14: Tuttle further discloses that wherein the RFID scanner 20 is battery-powered [col. 3, lines 48-50].

Regarding to claims 6 and 15: Tuttle further discloses that wherein said affixing means further comprises a strap adapted to affix the housing to a wrist of the operator [col. 3, lines 54-55].

Regarding to claims 7 and 16: Tuttle further discloses means for communicating said RFID data to an external system 80 [see Fig. 1, col. 4, lines 41-45 and col. 9, lines 14-20].

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims **4 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tuttle** in view of **Swartz et al.** [US 6,015,090].

Regarding to claims 4 and 13: Tuttle discloses the ID tag reader antenna externally as described in claims 2 and 11 above, Swartz et al. teaches a similar ID tag reading, wherein the signal emitting element that can either be housed internally or externally as alternatives [as

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shown in Fig. 2 and 3, col. 6, lines 38-45]. It would have been obvious of one having ordinary skill in the art at the time of the claimed invention, to have an ID tag reading that the signal emitting housed internally with one housing as taught by Swartz et al. for the purpose of convenience and cleaner look.

5. Claims **8-9 and 17-18** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Tuttle** in view of **Bard et al.** [US 5,610,387].

Regarding to claims 8 and 17: Tuttle discloses the instant claimed invention except for: the means for communicating said RFID data to wireless local area network.

Bard et al. teach a scanning system worn on operator's body which comprising, a means for communicating data to a wireless local network component [col. 17, lines 57-63]. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the wireless local network technology as taught by Bard et al. into the system of Tuttle for communication with the external system for portable/mobile application in Tuttle.

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Regarding to claims 9 and 18: Bard et al. further teaches a transceiver for communicating which can use infrared frequency, RF or acoustic link as alternatives [see col. 8, lines 1-2]. It would have been obvious in skill in the artisan would motivated to use a known specific frequency type including infrared as the specific wireless link of choice in Tuttle and Bard et al. based on system design preference.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Son M Tang whose telephone number is (571)272-2962. The examiner can normally be reached on 4/9 First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel J Wu can be reached on (571)272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Son Tang


BENJAMIN C. LEE
PRIMARY EXAMINER